

1 Michael R. Lozeau (State Bar No. 142893)  
2 Douglas J. Chermak (State Bar No. 233382)  
3 LOZEAU DRURY LLP  
4 410 12th Street, Suite 250  
5 Oakland, CA 94607  
6 Tel: (510) 836-4200  
7 Fax: (510) 836-4205  
8 E-mail: michael@lozeaudrury.com  
9 doug@lozeaudrury.com

10 Margaret Hall (State Bar No. 293699)  
11 ENVIRONMENTAL DEFENSE CENTER  
12 906 Garden Street  
13 Santa Barbara, CA 93101  
14 Tel: (805) 963-1622  
15 Fax: (805) 962-3152  
16 Email: mhall@EnvironmentalDefenseCenter.org

17 Attorneys for Plaintiff  
18 ENVIRONMENTAL DEFENSE CENTER

19  
20 **UNITED STATES DISTRICT COURT**  
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 ENVIRONMENTAL DEFENSE  
23 CENTER, a non-profit corporation,

24 Plaintiff,

25 vs.

26 VENTURA REGIONAL  
27 SANITATION DISTRICT, a public  
28 agency,

Defendant.

Case No. \_\_\_\_\_

COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
CIVIL PENALTIES

(Federal Water Pollution Control Act,  
33 U.S.C. §§ 1251 to 1387)

1 ENVIRONMENTAL DEFENSE CENTER (“EDC”), a California non-profit  
2 association, by and through its counsel, hereby alleges:

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provisions  
5 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean  
6 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties  
7 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33  
8 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the  
9 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02  
10 (power to issue declaratory relief in case of actual controversy and further necessary  
11 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);  
12 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

13 2. On May 3, 2016, Plaintiff provided notice of Defendant’s violations of  
14 the Act, and of Plaintiff’s intention to file suit against Defendant, to the Administrator  
15 of the United States Environmental Protection Agency (“EPA”); the Administrator of  
16 EPA Region IX; the Executive Director of the State Water Resources Control Board  
17 (“State Board”); the Executive Officer of the California Regional Water Quality  
18 Control Board, Los Angeles Region (“Regional Board”); and to Defendant, as  
19 required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of EDC’s  
20 notice letter is attached as Exhibit A, and is incorporated by reference.

21 3. More than sixty days have passed since notice was served on Defendant  
22 and the State and federal agencies. Plaintiff is informed and believes, and thereupon  
23 alleges, that neither the EPA nor the State of California has commenced or is  
24 diligently prosecuting a court action to redress the violations alleged in this complaint.  
25 This action’s claim for civil penalties is not barred by any prior administrative penalty  
26 under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

27 4. Venue is proper in the Central District of California pursuant to Section  
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1 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is  
2 located within this judicial district.

3 **II. INTRODUCTION**

4 5. This complaint seeks relief for Defendant's discharges of polluted storm  
5 water from Defendant's landfill facility located at 3500 Toland Road in Santa Paula,  
6 California ("Toland Road Landfill" or "Facility") in violation of the Act and National  
7 Pollutant Discharge Elimination System ("NPDES") Permit No. CAS000001, State  
8 Water Resources Control Board Water Quality Order No. 97-03-DWQ ("1997  
9 Permit"), as renewed by Water Quality Order No. 2014-0057-DWQ ("2015 Permit")  
10 (the permits are collectively referred to hereinafter as the "Permit" or "General  
11 Permit"). Defendant's violations of the discharge, treatment technology, monitoring  
12 requirements, and other procedural and substantive requirements of the Permit and the  
13 Act are ongoing and continuous.

14 **III. PARTIES**

15 6. Plaintiff EDC is a California non-profit corporation and law firm with its  
16 principal place of business located at 1906 Garden Street, Santa Barbara, CA 93101,  
17 and offices also located at 111 W. Topa Topa Street, Ojai, CA 93023. EDC was  
18 founded in 1977 and is dedicated to the preservation and enhancement of the local  
19 environment through education, advocacy, and legal action. EDC represents itself and  
20 other organizations in protecting coast and ocean resources, open spaces and wildlife,  
21 and human and environmental health. EDC has approximately 3,000 members,  
22 including scientists, lawyers, students and citizens who live, recreate, and work in and  
23 around waters of the State of California, including the Pacific Ocean and coastal  
24 creeks flowing into the Ocean from the Toland Road Landfill. EDC was formed to  
25 empower local citizens "to protect themselves and their communities" by serving as  
26 "the legal action arm of the environmental community." EDC brings this action on  
27 behalf of its members. EDC's interests in reducing Defendant's discharges of  
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1 pollutants into the Pacific Ocean and coastal creeks flowing into the Ocean and  
2 requiring Defendant to comply with the requirements of the General Permit are  
3 germane to its purposes. Litigation of the claims asserted and relief requested in this  
4 Complaint does not require the participation in this lawsuit of individual members of  
5 EDC.

6 7. Members of EDC reside in coastal communities that value and depend  
7 upon the Pacific Ocean, as well as the surface waters which eventually flow into the  
8 ocean. The Toland Road Landfill is located near the Santa Clara River and O'Leary  
9 Creek in Ventura County. The Santa Clara River flows into the Pacific Ocean.  
10 Members of EDC use and enjoy the waters into which Defendant has caused, is  
11 causing, and will continue to cause, pollutants to be discharged. Plaintiff's members  
12 use these areas to swim, bird watch, boat, sail, kayak, surf, view wildlife, fish, and  
13 engage in scientific study including monitoring activities, among other things.  
14 Defendant's discharges of pollutants threaten or impair each of those uses or  
15 contribute to such threats and impairments. Thus, the interests of Plaintiff's members  
16 have been, are being, and will continue to be adversely affected by Defendant's  
17 failure to comply with the Clean Water Act and the Permit. The relief sought herein  
18 will redress the harms to Plaintiff caused or contributed to by Defendant's activities.

19 8. Continuing commission of the acts and omissions alleged above will  
20 irreparably harm Plaintiff and one or more of its members, for which harm they have no  
21 plain, speedy or adequate remedy at law.

22 9. Defendant Ventura Regional Sanitation District ("VRSD" or "District")  
23 is a public waste management agency that was organized in 1970 pursuant to the  
24 County Sanitation District Act of the California Health and Safety Code Section 4700.  
25 VRSD is overseen by a nine-member Board of Directors who represent the eight cities  
26 and eight special districts that receive services from the District. VRSD operates the  
27 Toland Road Landfill that is at issue in this action.  
28

1 **IV. STATUTORY BACKGROUND**

2 10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of  
3 any pollutant into waters of the United States, unless such discharge is in compliance  
4 with various enumerated sections of the Act. Among other things, Section 301(a)  
5 prohibits discharges not authorized by, or in violation of, the terms of an NPDES  
6 permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

7 11. Section 402(p) of the Act establishes a framework for regulating  
8 municipal and industrial storm water discharges under the NPDES program. 33  
9 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by  
10 Section 402(p) to regulate industrial storm water discharges through individual  
11 permits issued to dischargers or through the issuance of a single, statewide general  
12 permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(p).

13 12. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator  
14 of the U.S. EPA has authorized California's State Board to issue NPDES permits  
15 including general NPDES permits in California.

16 **General Permit**

17 13. The State Board elected to issue a statewide general permit for industrial  
18 storm water discharges. The State Board originally issued the General Permit on or  
19 about November 19, 1991. The State Board modified the General Permit on or about  
20 September 17, 1992. Pertinent to this action, the State Board reissued the General  
21 Permit on or about April 17, 1997 (the "1997 Permit"), and again on or about April 1,  
22 2014 (the "2015 Permit"), pursuant to Section 402(p) of the Clean Water Act, 33  
23 U.S.C. § 1342(p). The 1997 Permit was in effect between 1997 and June 30, 2015.  
24 The 2015 Permit went into effect on July 1, 2015. The 2015 Permit maintains or  
25 makes more stringent the same requirements as the 1997 Permit.

26 14. In order to discharge storm water lawfully in California, industrial  
27 dischargers must comply with the terms of the General Permit or have obtained and  
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1 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).

2 15. The General Permit contains several prohibitions. Effluent Limitation  
3 B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit require  
4 dischargers to reduce or prevent pollutants in their storm water discharges through  
5 implementation of the Best Available Technology Economically Achievable (“BAT”)  
6 for toxic and nonconventional pollutants and the Best Conventional Pollutant Control  
7 Technology (“BCT”) for conventional pollutants. Discharge Prohibition A(2) of the  
8 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water  
9 discharges and authorized non-storm water discharges that cause or threaten to cause  
10 pollution, contamination, or nuisance. Receiving Water Limitation C(1) of the 1997  
11 Permit and Receiving Water Limitation VI(B) of the 2015 Permit prohibit storm water  
12 discharges to any surface or ground water that adversely impact human health or the  
13 environment. Receiving Water Limitation C(2) of the 1997 Permit and Receiving  
14 Water Limitation VI(A) and Discharge Prohibition III(D) of the 2015 Permit prohibit  
15 storm water discharges that cause or contribute to an exceedance of any applicable  
16 water quality standards contained in Statewide Water Quality Control Plan or the  
17 applicable Regional Board’s Basin Plan.

18 16. In addition to absolute prohibitions, the General Permit contains a variety  
19 of substantive and procedural requirements that dischargers must meet. Facilities  
20 discharging, or having the potential to discharge, storm water associated with  
21 industrial activity that have not obtained an individual NPDES permit must apply for  
22 coverage under the State’s General Permit by filing a Notice of Intent to Comply  
23 (“NOI”). Dischargers have been required to file NOIs since March 30, 1992.

24 17. Dischargers must develop and implement a Storm Water Pollution  
25 Prevention Plan (“SWPPP”). The SWPPP must describe storm water control facilities  
26 and measures that comply with the BAT and BCT standards. The General Permit  
27 requires that an initial SWPPP has been developed and implemented before October  
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1 1, 1992. The objective of the SWPPP requirement is to identify and evaluate sources  
2 of pollutants associated with industrial activities that may affect the quality of storm  
3 water discharges and authorized non-stormwater discharges from the facility, and to  
4 implement best management practices (“BMPs”) to reduce or prevent pollutants  
5 associated with industrial activities in storm water discharges and authorized non-  
6 storm water discharges. *See* 1997 Permit, § A(2); 2015 Permit, § X(C). These BMPs  
7 must achieve compliance with the General Permit’s effluent limitations and receiving  
8 water limitations, including the BAT and BCT technology mandates. To ensure  
9 compliance with the General Permit, the SWPPP must be evaluated and revised as  
10 necessary. 1997 Permit, §§ A(9), (10); 2015 Permit, § X(B). Failure to develop or  
11 implement an adequate SWPPP, or update or revise an existing SWPPP as required, is  
12 a violation of the General Permit. 2015 Permit, Fact Sheet § I(1).

13 18. Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a  
14 SWPPP. Among other requirements, the SWPPP must include: a pollution prevention  
15 team; a site map; a list of significant materials handled and stored at the site; a  
16 description of potential pollutant sources; an assessment of potential pollutant sources;  
17 and a description of the BMPs to be implemented at the facility that will reduce or  
18 prevent pollutants in storm water discharges and authorized non-stormwater  
19 discharges, including structural BMPs where non-structural BMPs are not effective.  
20 Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP  
21 requirements as the 1997 Permit, except that all dischargers are now required to  
22 develop and implement a set of minimum BMPs, as well as any advanced BMPs as  
23 necessary to achieve BAT/BCT, which serve as the basis for compliance with the  
24 2015 Permit’s technology-based effluent limitations and receiving water limitations.  
25 *See* 2015 Permit, § X(H). The 2015 Permit further requires a more comprehensive  
26 assessment of potential pollutant sources than the 1997 Permit; more specific BMP  
27 descriptions; and an additional BMP summary table identifying each identified area of  
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1 industrial activity, the associated industrial pollutant sources, the industrial pollutants,  
2 and the BMPs being implemented. See 2015 Permit, §§ X(G)(2), (4), (5).

3 19. The 2015 Permit requires dischargers to implement and maintain, to the  
4 extent feasible, all of the following minimum BMPs in order to reduce or prevent  
5 pollutants in industrial storm water discharges: good housekeeping, preventive  
6 maintenance, spill and leak prevention and response, material handling and waste  
7 management, erosion and sediment controls, an employee training program, and  
8 quality assurance and record keeping. See 2015 Permit, § X(H)(1). Failure to  
9 implement all of these minimum BMPs is a violation of the 2015 Permit. See 2015  
10 Permit, Fact Sheet § I(2)(o). The 2015 Permit further requires dischargers to  
11 implement and maintain, to the extent feasible, any one or more of the following  
12 advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial  
13 storm water discharges: exposure minimization BMPs, storm water containment and  
14 discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. See  
15 2015 Permit, § X(H)(2). Failure to implement advanced BMPs as necessary to  
16 achieve compliance with either technology or water quality standards is a violation of  
17 the 2015 Permit. *Id.* The 2015 Permit also requires that the SWPPP include BMP  
18 Descriptions and a BMP Summary Table. See 2015 Permit, § X(H)(4), (5).

19 20. The General Permit requires dischargers to develop and implement an  
20 adequate written Monitoring and Reporting Program. The primary objective of the  
21 Monitoring and Reporting Program is to detect and measure the concentrations of  
22 pollutants in a facility's discharge to ensure compliance with the General Permit's  
23 discharge prohibitions, effluent limitations, and receiving water limitations. As part  
24 of their monitoring program, dischargers must identify all storm water discharge  
25 locations that produce a significant storm water discharge, evaluate the effectiveness  
26 of BMPs in reducing pollutant loading, and evaluate whether pollution control  
27 measures set out in the SWPPP are adequate and properly implemented. The 1997  
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1 Permit required dischargers to collect storm water samples during the first hour of  
2 discharge from the first storm event of the wet season, and at least one other storm  
3 event during the wet season, from all storm water discharge locations at a facility. *See*  
4 1997 Permit, § B(5). The 2015 Permit now mandates that facility operators sample  
5 *four* (rather than two) storm water discharges from all discharge locations over the  
6 course of the reporting year. *See* 2015 Permit, §§ XI(B)(2), (3).

7 21. Facilities are required to make monthly visual observations of storm  
8 water discharges. The visual observations must represent the quality and quantity of  
9 the facility's storm water discharges from the storm event. 1997 Permit, § B(7); 2015  
10 Permit, § XI.A.

11 22. Section XI(B)(2) of the 2015 Permit requires that dischargers collect and  
12 analyze storm water samples from two qualifying storm events ("QSEs") during the  
13 first half of each reporting year (July 1 to December 31) and two QSEs during the  
14 second half of each reporting year (January 1 to June 30).

15 23. Under the 1997 Permit, facilities must analyze storm water samples for  
16 "toxic chemicals and other pollutants that are likely to be present in storm water  
17 discharges in significant quantities." 1997 Permit, § B(5)(c)(ii). Under the 2015  
18 Permit, facilities must analyze storm water samples for "[a]dditional parameters  
19 identified by the Discharger on a facility-specific basis that serve as indicators of the  
20 presence of all industrial pollutants identified in the pollutant source assessment."  
21 2015 Permit, § XI(B)(6)(c).

22 24. Section B(14) of the 1997 Permit requires dischargers to include  
23 laboratory reports with their Annual Reports submitted to the Regional Board. This  
24 requirement is continued with the 2015 Permit. Fact Sheet, Paragraph O.

25 25. The 1997 Permit, in relevant part, requires that the Annual Report  
26 include an Annual Comprehensive Site Compliance Evaluation Report ("ACSCE  
27 Report"). 1997 Permit, § B(14). As part of the ACSCE Report, the facility operator  
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1 must review and evaluate all of the BMPs to determine whether they are adequate or  
2 whether SWPPP revisions are needed. The Annual Report must be signed and  
3 certified by a duly authorized representative, under penalty of law that the information  
4 submitted is true, accurate, and complete to the best of his or her knowledge. The  
5 2015 Permit now requires operators to conduct an Annual Comprehensive Facility  
6 Compliance Evaluation (“Annual Evaluation”) that evaluates the effectiveness of  
7 current BMPs and the need for additional BMPs based on visual observations and  
8 sampling and analysis results. *See* 2015 Permit, § XV.

9 26. The General Permit does not provide for any mixing zones by  
10 dischargers. The General Permit does not provide for any receiving water dilution  
11 credits to be applied by dischargers.

12 **Basin Plan**

13 27. The Regional Board has established water quality standards for the Santa  
14 Clara River Watershed in the “Water Quality Control Plan – Los Angeles Region:  
15 Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties,”  
16 generally referred to as the Basin Plan.

17 28. The Basin Plan includes a narrative toxicity standard which states that  
18 “[a]ll waters shall be maintained free of toxic substances in concentrations that are  
19 toxic to, or that produce detrimental physiological responses in, human, plant, animal,  
20 or aquatic life.”

21 29. The Basin Plan provides that “[w]aters shall not contain suspended or  
22 settleable material in concentrations that cause nuisance or adversely affect beneficial  
23 uses.”

24 30. The Basin Plan provides that “[t]he pH of bays or estuaries [or inland  
25 surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of  
26 waste discharges.”

27 31. The Basin Plan provides that “[w]aters shall not contain floating  
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1 materials, including solids, liquids, foams, and scum, in concentrations that cause  
2 nuisance or adversely affect beneficial uses.”

3 32. The Basin Plan provides that “[w]aters shall be free of coloration that  
4 causes nuisance or adversely affects beneficial uses.”

5 33. The Basin Plan provides that “[w]aters shall be free of changes in  
6 turbidity that cause nuisance or adversely affect beneficial uses.”

7 34. The Basin Plan provides that “[s]urface waters shall not contain  
8 concentrations of chemical constituents in amounts that adversely affect any  
9 designated beneficial use. Water designated for use as Domestic or Municipal Supply  
10 (MUN) [such as the Santa Clara River] shall not contain concentrations of chemical  
11 constituents in excess of the limits specified in the following provisions of Title 22 of  
12 the California Code of Regulations which are incorporated by reference into this plan:  
13 Table 64431-A of Section 64431 (Inorganic Chemicals) and Table 64444-A of  
14 Section 64444 (Organic Chemicals). This incorporation by reference is prospective  
15 including future changes to the incorporated provisions as the changes take effect.  
16 (See Tables 3-8 and 3-9.)” The Basin Plan provides the following Maximum  
17 Contaminant Levels (“MCLs”): arsenic – 0.010 mg/L; cadmium – 0.005 mg/L;  
18 chromium – 0.05 mg/L; nickel – 0.1 mg/L; and nitrate + nitrite as nitrogen – 10 mg/L.  
19

20 35. The Basin Plan provides Water Quality Objectives (“WQOs”) for  
21 selected constituents in inland surface waters, including the Santa Clara River. For  
22 the portion of the Santa Clara River Watershed where O’Leary Creek flows in the  
23 Santa Clara River, the Basin Plan provides a WQO of nitrate + nitrite as nitrogen of 5  
24 mg/L.

25 36. The EPA has adopted freshwater numeric water quality standards for  
26 zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”); for copper of 0.013  
27 mg/L (CMC); for lead of 0.065 mg/L (CMC); for cadmium of 0.0043 mg/L (CMC);  
28 and for nickel of 0.47 mg/L (CMC). 65 Fed.Reg. 31712 (May 18, 2000) (California

1 Toxics Rule).

2 37. EPA has established Parameter Benchmark Values as guidelines for  
3 determining whether a facility discharging industrial storm water has implemented the  
4 requisite BAT and BCT. These benchmarks represent pollutant concentrations at  
5 which a storm water discharge could potentially impair, or contribute to impairing,  
6 water quality, or affect human health from ingestion of water or fish. The following  
7 EPA benchmarks have been established for pollution parameters applicable to Toland  
8 Road Landfill: pH – 6.0 - 9.0 standard units (“s.u.”); total suspended solids (“TSS”) –  
9 100 mg/L; iron – 1.0 mg/L; nitrate + nitrite as nitrogen (“N+N”) – 0.68 mg/L;  
10 phosphorous – 2.0 mg/L; ammonia – 2.14 mg/L; arsenic – 0.15 mg/L; zinc – 0.26  
11 mg/L; copper – 0.0332 mg/L; lead – 0.262 mg/L; and cadmium – 0.0053 mg/L.

12 38. These benchmarks are reflected in the 2015 Permit in the form of  
13 Numeric Action Levels (“NALs”). The 2015 Permit incorporates annual NALs,  
14 which reflect the 2008 MSGP benchmark values, and instantaneous maximum NALs,  
15 which are derived from a Water Board dataset. The following annual NALs have  
16 been established under the 2015 Permit: TSS – 100 mg/L; iron – 1.0 mg/L; N+N –  
17 0.68 mg/L; phosphorous – 2.0 mg/L; ammonia – 2 mg/L; arsenic – 0.15 mg/L; zinc –  
18 0.26 mg/L; copper – 0.0332 mg/L; lead – 0.262 mg/L; and cadmium – 0.0053 mg/L.  
19 An exceedance of annual NALs occurs when the average of all samples obtained for  
20 an entire facility during a single reporting year is greater than a particular annual  
21 NAL. The reporting year runs from July 1 to June 30. The 2015 Permit also  
22 establishes the following instantaneous maximum NALs: pH – 6.0-9.0 s.u.; TSS – 400  
23 mg/L; and O&G – 25 mg/L. An instantaneous maximum NAL exceedance occurs  
24 when two or more analytical results from samples taken for any single parameter  
25 within a reporting year exceed the instantaneous maximum NAL value (for TSS and  
26 O&G) or are outside of the instantaneous maximum NAL range for pH. When a  
27 discharger exceeds an applicable NAL, it is elevated to “Level 1 Status,” which  
28

1 requires a revision of the SWPPP and additional BMPs. If a discharger exceeds an  
 2 applicable NAL during Level 1 Status, it is then elevated to "Level 2 Status." For  
 3 Level 2 Status, a discharger is required to submit an Action Plan requiring a  
 4 demonstration of either additional BMPs to prevent exceedances, a determination that  
 5 the exceedance is solely due to non-industrial pollutant sources, or a determination  
 6 that the exceedance is solely due to the presence of the pollutant in the natural  
 7 background.

8 39. Section 505(a)(1) and Section 505(f) of the Act provide for citizen  
 9 enforcement actions against any "person," including individuals, corporations, or  
 10 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)  
 11 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33  
 12 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil  
 13 penalties of up to \$37,500 per day per violation, pursuant to Sections 309(d) and 505  
 14 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 - 19.4.

## 15 **V. STATEMENT OF FACTS**

16 40. Defendant VRSD owns and/or operates the Toland Road Landfill, a 161  
 17 acre facility located within unincorporated Ventura County near the City of Santa  
 18 Paula.

19 41. The Facility falls within Standard Industrial Classification ("SIC") Code  
 20 4953 (refuse systems).

21 42. Based on the Facility's Notice of Intent to Comply with the Terms of the  
 22 Industrial General Permit ("NOI") and SWPPP, review of aerial photography, and  
 23 EDC's information and belief, storm water is collected and discharged from the 161-  
 24 acre facility through a series of channels throughout the Facility which all drain to a  
 25 detention basin and then discharge via a single storm water outfall to O'Leary Creek.  
 26 O'Leary flows into Reach 3 of the Santa Clara River approximately 2.3 miles south of  
 27 the Facility. The Santa Clara River flows into the Pacific Ocean.  
 28

1           43. Plaintiff is informed and believes, and thereupon alleges that the storm  
2 water flows over the surface of the Facility's industrial features, collecting suspended  
3 sediment, dirt, metals, and other pollutants as it flows towards the storm water  
4 channels. Storm water and any pollutants contained in that storm water enters the  
5 channels and flows into O'Leary Creek, and ultimately into the Santa Clara River and  
6 the Pacific Ocean.

7           44. On information and belief, Plaintiff alleges that the majority of storm  
8 water discharges from the Facility contain storm water that is commingled with runoff  
9 from areas at the Facility where industrial processes occur.

10           45. Plaintiff is informed and believes, and thereupon alleges, that the  
11 management practices at the Toland Road Landfill are currently inadequate to prevent  
12 the sources of contamination described above from causing the discharge of pollutants  
13 to waters of the United States. The Facility lacks sufficient structural controls such as  
14 grading, berming, roofing, containment, or drainage structures to prevent rainfall and  
15 storm water flows from coming into contact with exposed areas of contaminants. The  
16 Facility lacks sufficient structural controls, such as an inadequate detention basin, to  
17 prevent the discharge of water once contaminated. The Facility lacks adequate storm  
18 water pollution treatment technologies to treat storm water once contaminated.

19           46. Since at least October 5, 2011, Defendant has taken samples or arranged  
20 for samples to be taken of storm water discharges at the Facility. The sample results  
21 were reported in the Facility's annual reports submitted to the Regional Board.  
22 Defendant certified each of those annual reports pursuant to the General Permit.

23           47. In annual reports submitted to the Regional Board for the past five years,  
24 the Facility has consistently reported extremely high pollutant levels from its storm  
25 water sampling results. The Facility's measurements of TSS, N+N, iron and copper  
26 have been particularly elevated, with readings *orders of magnitude* above EPA's  
27 benchmark levels as well as the annual NALs for those pollutants.  
28

1        48. The Facility has reported numerous discharges in excess of narrative and  
2 numeric water quality standards established in the Basin Plan. These observations  
3 have thus violated narrative and numeric water quality standards established in the  
4 Basin Plan and have thus violated Discharge Prohibition A(2) and Receiving Water  
5 Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and  
6 III(D) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are  
7 evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit and  
8 Effluent Limitation V(A) of the 2015 Permit.

9        49. The Facility has reported violations of the narrative water quality  
10 standards for discoloration, turbidity, and floatables contained in the Basin Plan.  
11 Specific dates on which Defendant has observed storm water discharges with such  
12 violations are contained in the Notice Letter attached as Exhibit A.

13        50. The levels of TSS in storm water detected by the Facility have exceeded  
14 the benchmark value and annual NAL for TSS of 100 mg/L established by EPA and  
15 the State Board, respectively, and the instantaneous NAL value for TSS of 400 mg/L  
16 established by the State Board. For example, on January 5, 2016, the level of TSS  
17 measured by Defendant at its outfall was 23,000 mg/L. That level of TSS is 230 times  
18 the benchmark value and annual NAL for TSS. VRSD also has measured levels of  
19 TSS in storm water discharged from the Facility in excess of 100 mg/L in every  
20 discharge from the Facility during the past five years. Specific dates on which  
21 Defendant has measured such exceedances, and the levels and locations of such  
22 exceedances, are contained in the Notice Letter attached as Exhibit A.

23        51. The levels of N+N in storm water detected by the Facility have exceeded  
24 the MCL of 10 mg/L for N+N and the WQO established by the Basin Plan of 5 mg/L  
25 for N+N. For example, on December 12, 2014, the level of N+N measured from the  
26 Facility's storm water outfall was 365 mg/L. That level of N+N is almost 37 times  
27 the MCL for N+N, and 73 times the WLA for N+N. Specific dates on which  
28

1 Defendant has measured such exceedances of the MCL and WQO for N+N, and the  
2 levels and locations of such exceedances, are contained in the Notice Letter attached  
3 as Exhibit A.

4 52. The levels of N+N in storm water detected by the Facility have exceeded  
5 the benchmark value and annual NAL for N+N of 0.68 mg/L established by EPA and  
6 the State Board, respectively. For example, on December 12, 2014, the level of N+N  
7 measured by Defendant at its outfall was 365 mg/L. That level of N+N is over 536  
8 times the benchmark value and annual NAL for N+N. VRSD also has measured  
9 levels of N+N in storm water discharged from the Facility in excess of 0.368 mg/L in  
10 every discharge from the Facility during the past five years. Specific dates on which  
11 Defendant has measured such exceedances, and the levels and locations of such  
12 exceedances, are contained in the Notice Letter attached as Exhibit A.

13 53. The levels of ammonia in storm water detected by the Facility have  
14 exceeded the benchmark value and annual NAL for ammonia of 2.14 mg/L  
15 established by EPA and the State Board, respectively. For example, on December 12,  
16 2014, the level of ammonia measured by Defendant at its outfall was 3.2 mg/L. That  
17 level of ammonia is nearly 1.5 times the benchmark value and annual NAL for  
18 ammonia. Specific dates on which Defendant has measured such exceedances of  
19 ammonia, and the levels and locations of such exceedances, are contained in the  
20 Notice Letter attached as Exhibit A.

21 54. The levels of phosphorous in storm water detected by the Facility have  
22 exceeded the benchmark value and annual NAL for phosphorous of 2 mg/L  
23 established by EPA and the State Board, respectively. For example, on February 27,  
24 2014, the level of phosphorous measured by Defendant at its outfall was 48 mg/L.  
25 That level of phosphorous is 24 times the benchmark value and annual NAL for  
26 phosphorous. VRSD also has measured levels of phosphorous in storm water  
27 discharged from the Facility in excess of 2 mg/L in every discharge from the Facility  
28

1 during the past five years. Specific dates on which Defendant has measured such  
2 exceedances of phosphorous, and the levels and locations of such exceedances, are  
3 contained in the Notice Letter attached as Exhibit A.

4 55. The levels of arsenic in storm water detected by the Facility have  
5 exceeded the MCL of 0.01 mg/L for arsenic. For example, on February 27, 2014, the  
6 level of arsenic measured from the Facility's storm water outfall was 0.21 mg/L. That  
7 level of arsenic is 21 times the MCL for arsenic. Specific dates on which Defendant  
8 has measured such exceedances of the MCL for arsenic, and the levels and locations  
9 of such exceedances, are contained in the Notice Letter attached as Exhibit A.

10 56. The level of arsenic in storm water detected by the Facility has exceeded  
11 the benchmark value for arsenic of 0.15 mg/L established by the EPA. On February  
12 27, 2014, the level of arsenic measured by Defendant at its outfall was 0.27 mg/L.  
13 That level of arsenic is nearly twice the benchmark value for arsenic.

14 57. The levels of iron in storm water detected by the Facility have exceeded  
15 the benchmark value and annual NAL for iron of 1 mg/L established by EPA and the  
16 State Board, respectively. For example, on February 27, 2014, the level of iron  
17 measured by Defendant at its outfall was 1,100 mg/L. That level of iron is 1,100  
18 times the benchmark value and annual NAL for iron. VRSD also has measured levels  
19 of iron in storm water discharged from the Facility in excess of 1 mg/L in every  
20 discharge from the Facility during the past five years. Specific dates on which  
21 Defendant has measured such exceedances of iron, and the levels and locations of  
22 such exceedances, are contained in the Notice Letter attached as Exhibit A.

23 58. The levels of copper in storm water detected by the Facility have  
24 exceeded the freshwater numeric water quality standard established by the EPA of  
25 0.013 mg/L (CMC). For example, on February 27, 2014, the level of copper  
26 measured from the Facility's storm water outfall was 0.89 mg/L. That level of copper  
27 is over 68 times the CMC for copper. VRSD also has measured levels of copper in  
28

1 storm water discharged from the Facility in excess of 0.013 mg/L in nearly every  
2 discharge from the Facility during the past five years. Specific dates on which  
3 Defendant has measured such exceedances of the CMC for copper, and the levels and  
4 locations of such exceedances, are contained in the Notice Letter attached as Exhibit  
5 A.

6 59. The levels of copper in storm water detected by the Facility have  
7 exceeded the benchmark value and annual NAL for copper of 0.0332 mg/L  
8 established by EPA and the State Board, respectively. For example, on February 27,  
9 2014, the level of copper measured by Defendant at its outfall was 0.89 mg/L. That  
10 level of copper is almost 27 times the benchmark value and annual NAL for copper.  
11 VRSD also has measured levels of copper in storm water discharged from the Facility  
12 in excess of 0.0332 mg/L in nearly every discharge from the Facility during the past  
13 five years. Specific dates on which Defendant has measured such exceedances of  
14 copper, and the levels and locations of such exceedances, are contained in the Notice  
15 Letter attached as Exhibit A.

16 60. The levels of zinc in storm water detected by the Facility have exceeded  
17 the freshwater numeric water quality standard established by the EPA of 0.12 mg/L  
18 for zinc (CMC) and the WLA established by the Basin Plan of 0.117 mg/L for zinc.  
19 For example, on February 27, 2014, the level of zinc measured from the Facility's  
20 storm water outfall was 3.1 mg/L. That level of zinc is almost 26 times the CMC for  
21 zinc, and over 26 times the WLA for zinc. Specific dates on which Defendant has  
22 measured such exceedances of zinc, and the levels and locations of such exceedances,  
23 are contained in the Notice Letter attached as Exhibit A.

24 61. The levels of zinc in storm water detected by the Facility have exceeded  
25 the benchmark value and annual NAL for zinc of 0.26 mg/L established by EPA and  
26 the State Board, respectively. For example, on February 27, 2014, the level of zinc  
27 measured by Defendant at its outfall was 3.1 mg/L. That level of zinc is almost 12  
28

1 times the benchmark value and annual NAL for zinc. Specific dates on which  
2 Defendant has measured such exceedances of zinc, and the levels and locations of  
3 such exceedances, are contained in the Notice Letter attached as Exhibit A.

4 62. The levels of lead in storm water detected by the Facility have exceeded  
5 the freshwater numeric water quality standard established by the EPA of 0.065 mg/L  
6 (CMC). For example, on February 27, 2014, the level of lead measured from the  
7 Facility's storm water outfall was 0.4 mg/L. That level of lead is over 6 times the  
8 CMC for lead. Specific dates on which Defendant has measured such exceedances of  
9 the CMC for lead, and the levels and locations of such exceedances, are contained in  
10 the Notice Letter attached as Exhibit A.

11 63. The level of lead in storm water detected by the Facility has exceeded the  
12 benchmark value for lead of 0.262 mg/L established by the EPA. On February 27,  
13 2014, the level of lead measured by Defendant at its outfall was 0.4 mg/L. That level  
14 of lead is over 1.5 times the benchmark value for lead.

15 64. The levels of cadmium in storm water detected by the Facility have  
16 exceeded the freshwater numeric water quality standard established by the EPA of  
17 0.0043 mg/L (CMC) and the MCL for cadmium of 0.005 mg/L. For example, on  
18 February 27, 2014, the level of cadmium measured from the Facility's storm water  
19 outfall was 0.04 mg/L. That level of cadmium is over 9 times the CMC for cadmium  
20 and 8 times the MCL for cadmium. Specific dates on which Defendant has measured  
21 such exceedances of the CMC and MCL for cadmium, and the levels and locations of  
22 such exceedances, are contained in the Notice Letter attached as Exhibit A.

23 65. The levels of cadmium in storm water detected by the Facility have  
24 exceeded the benchmark value and annual NAL for cadmium of 0.0053 mg/L  
25 established by EPA and the State Board, respectively. For example, on February 27,  
26 2014, the level of cadmium measured by Defendant at its outfall was 0.04 mg/L. That  
27 level of cadmium is over 7.5 times the benchmark value and annual NAL for  
28

1 cadmium. Specific dates on which Defendant has measured such exceedances of  
2 cadmium, and the levels and locations of such exceedances, are contained in the  
3 Notice Letter attached as Exhibit A.

4 66. The levels of nickel in storm water detected by the Facility have  
5 exceeded the freshwater numeric water quality standard established by the EPA of  
6 0.47 mg/L (CMC) and the MCL for nickel of 0.1 mg/L. For example, on February 27,  
7 2014, the level of nickel measured from the Facility's storm water outfall was 0.92  
8 mg/L. That level of nickel is almost twice the CMC for nickel and over 9 times the  
9 MCL for nickel. Specific dates on which Defendant has measured such exceedances  
10 of the CMC and MCL for nickel, and the levels and locations of such exceedances,  
11 are contained in the Notice Letter attached as Exhibit A.

12 67. The levels of chromium in storm water detected by the Facility have  
13 exceeded the MCL for chromium of 0.05 mg/L. For example, on February 27, 2014,  
14 the level of chromium measured from the Facility's storm water outfall was 0.87  
15 mg/L. That level of chromium is almost twice the MCL for chromium. Specific dates  
16 on which Defendant has measured such exceedances of the MCL for chromium, and  
17 the levels and locations of such exceedances, are contained in the Notice Letter  
18 attached as Exhibit A.

19 68. On information and belief, EDC alleges that during the first half of the  
20 2015-2016 reporting year, the Facility failed to collect and analyze a storm water  
21 sample from a second qualifying storm event.

22 69. On information and belief, EDC alleges that VRSD failed to properly  
23 conduct a monthly visual observation of the storm water discharges at the T2 outfall  
24 on February 27, 2014. During that event, the Facility reported that it did not observe  
25 any pollutants in the discharge. However, the concentration of TSS measured for that  
26 same event was 33,000 mg/L—the highest measured from the Facility during the past  
27 five years. EDC alleges it would be impossible for a discharge containing that level  
28

1 of TSS to be free of visual pollutants. By way of comparison, the Facility has  
2 observed discolored, turbid water during various other storm water discharges when  
3 the level of TSS it measured was much lower than 33,000 mg/L.

4 70. During the past five years, VRSD has analyzed its storm water  
5 discharges for zinc, copper, cadmium, and nickel. Many of those discharges  
6 contained levels in excess of the benchmark values and water quality standards for  
7 those parameters. In its SWPPP, VRSD indicates that it will analyze its storm water  
8 discharges for zinc, copper, cadmium, and nickel. However, during the first sampling  
9 event of the 2014-2015 wet season, VRSD failed to analyze its storm water discharge  
10 for zinc, copper, cadmium, and nickel. During the second sampling event of that  
11 season, VRSD failed to analyze its storm water discharge for cadmium and nickel.

12 71. On information and belief, EDC alleges that VRSD failed to submit  
13 laboratory reports with its 2014-2015 Annual Report.

14 72. On information and belief, EDC alleges that VRSD has consistently  
15 failed to comply with Section B(14) of the 1997 Permit, and Section XV of the 2015  
16 Permit, by failing to complete a proper ACSCE Report as well as an Annual  
17 Evaluation for the Facility.

18 73. On information and belief, Plaintiff alleges that since at least May 28,  
19 2011, Defendant has failed to implement BAT and BCT at the Facility for their  
20 discharges of TSS, N+N, phosphorous, iron, ammonia, arsenic, copper, zinc, lead,  
21 cadmium, chromium, nickel, and other potentially un-monitored pollutants. Effluent  
22 Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit  
23 requires that Defendant implement BAT for toxic and nonconventional pollutants and  
24 BCT for conventional pollutants by no later than October 1, 1992. As of the date of  
25 this Complaint, Defendant has failed to implement BAT and BCT.

26 74. On information and belief, Plaintiff alleges that since at least May 28,  
27 2011, Defendant has failed to implement an adequate SWPPP for the Facility.  
28

1 Plaintiff is informed and believes, and thereupon alleges, that the SWPPP prepared for  
2 the Facility does not set forth site-specific best management practices for the Facility  
3 that are consistent with BAT or BCT for the Facility. Plaintiff is informed and  
4 believes, and thereupon alleges, that the SWPPP prepared for the Facility does not  
5 comply with the requirements of Section X(H)(2) of the 2015 Permit. The SWPPP  
6 also fails to identify and implement advanced BMPs that are not being implemented at  
7 the Facility because they do not reflect best industry practice considering BAT/BCT.  
8 According to information available to EDC, Defendant's SWPPP has not been  
9 evaluated to ensure its effectiveness and revised where necessary to further reduce  
10 pollutant discharges. Plaintiff is informed and believes, and thereupon alleges, that the  
11 SWPPP does not include each of the mandatory elements required by the General  
12 Permit.

13 75. Information available to EDC indicates that as a result of these practices,  
14 storm water containing excessive pollutants is being discharged during rain events to  
15 O'Leary Creek, which flows into the Santa Clara River, and ultimately flows into the  
16 Pacific Ocean.

17 76. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
18 has failed and continues to fail to alter the Facility's SWPPP and site-specific BMPs  
19 consistent with the General Permit.

20 77. Information available to Plaintiff indicates that Defendant has not  
21 fulfilled the requirements set forth in the General Permit for discharges from the  
22 Facility due to the continued discharge of contaminated storm water. Plaintiff is  
23 informed and believes, and thereupon alleges, that all of the violations alleged in this  
24 Complaint are ongoing and continuing.

## 25 **VI. CLAIMS FOR RELIEF**

### 26 **FIRST CAUSE OF ACTION**

#### 27 **Failure to Implement the Best Available and**

**Best Conventional Treatment Technologies  
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

78. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

79. The General Permit's SWPPP requirements and Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit require dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. Defendant has failed to implement BAT and BCT at the Facility for its discharges of TSS, N+N, phosphorous, iron, ammonia, arsenic, copper, zinc, lead, cadmium, chromium, nickel, and other potentially un-monitored pollutants in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.

80. Each day since May 28, 2011, that Defendant has failed to develop and implement BAT and BCT in violation of the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

81. Defendant has been in violation of the BAT/BCT requirements every day since May 28, 2011. Defendant continues to be in violation of the BAT/BCT requirements each day that they fail to develop and fully implement BAT/BCT at the Facility.

**SECOND CAUSE OF ACTION  
Discharges of Contaminated Storm Water  
in Violation of Permit Conditions and the Act  
(Violations of 33 U.S.C. §§ 1311, 1342)**

82. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

83. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm

1 water discharges that cause or threaten to cause pollution, contamination, or nuisance.  
2 Receiving Water Limitation C(1) of the 1997 Permit and Receiving Water Limitation  
3 VI(B) of the 2015 Permit prohibit storm water discharges to any surface or ground  
4 water that adversely impact human health or the environment. Receiving Water  
5 Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and  
6 Discharge Prohibition III(D) of the 2015 Permit prohibit storm water discharges that  
7 cause or contribute to an exceedance of any applicable water quality standards  
8 contained in Statewide Water Quality Control Plan or the applicable Regional Board's  
9 Basin Plan.

10 84. Plaintiff is informed and believes, and thereupon alleges, that since at least  
11 May 28, 2011, Defendant has been discharging polluted storm water from the Facility  
12 in excess of applicable water quality standards in violation of Receiving Water  
13 Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and  
14 Discharge Prohibition III(D) of the 2015 Permit.

15 85. During every rain event, storm water flows freely over exposed materials,  
16 waste products, and other accumulated pollutants at the Facility, becoming  
17 contaminated with nitrates, nitrites, arsenic, copper, zinc, lead, cadmium, nickel,  
18 chromium, and other potentially un-monitored pollutants at levels above applicable  
19 water quality standards. The storm water then flows untreated to O'Leary Creek,  
20 which flows into the Santa Clara River, and ultimately flows into the Pacific Ocean.

21 86. Plaintiff is informed and believes, and thereupon alleges, that these  
22 discharges of contaminated storm water are causing or contributing to the violation of  
23 the applicable water quality standards in a Statewide Water Quality Control Plan and/or  
24 the applicable Regional Board's Basin Plan in violation of Receiving Water Limitation  
25 C(2) of the General Permit.

26 87. Plaintiff is informed and believes, and thereupon alleges, that these  
27 discharges of contaminated storm water are adversely affecting human health and the  
28

1 environment in violation of Receiving Water Limitation C(1) of the General Permit.

2 88. Every day since at least May 28, 2011, that Defendant has discharged and  
3 continue to discharge polluted storm water from the Facility in violation of the General  
4 Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. §  
5 1311(a). These violations are ongoing and continuous.

6  
7 **THIRD CAUSE OF ACTION**

8 **Failure to Prepare, Implement, Review, and Update**  
9 **an Adequate Storm Water Pollution Prevention Plan**  
10 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

11 89. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if  
12 fully set forth herein.

13 90. The General Permit requires dischargers of storm water associated with  
14 industrial activity to develop and implement an adequate SWPPP no later than  
15 October 1, 1992.

16 91. Defendant has failed to develop and implement an adequate SWPPP for  
17 the Facility. Defendant's ongoing failure to develop and implement an adequate  
18 SWPPP for the Facility is evidenced by, *inter alia*, Defendant's failure to justify each  
19 minimum and advanced BMP not being implemented.

20 92. Defendant has failed to update the Facility's SWPPP in response to the  
21 analytical results of the Facility's storm water monitoring.

22 93. Each day since May 28, 2011, that Defendant has failed to develop,  
23 implement and update an adequate SWPPP for the Facility is a separate and distinct  
24 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

25 94. Defendant has been in violation of the SWPPP requirements every day  
26 since May 28, 2011. Defendant continues to be in violation of the SWPPP  
27 requirements each day that it fails to develop and fully implement an adequate SWPPP  
28 for the Facility.

**FOURTH CAUSE OF ACTION**  
**Failure to Develop and Implement an**  
**Adequate Monitoring and Reporting Program**  
**(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

95. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

96. The General Permit requires dischargers of storm water associated with industrial activity to have developed and be implementing a monitoring and reporting program (including, *inter alia*, sampling and analysis of discharges) no later than October 1, 1992.

97. Defendant has failed to develop and implement an adequate monitoring and reporting program for the Toland Road Landfill.

98. Defendant's ongoing failure to develop and implement an adequate monitoring and reporting program are evidenced by, *inter alia*, its failure to sample all QSEs during the first half of the 2015-2016 reporting year, failure to properly conduct visual observations on February 27, 2014, and its failure to measures storm water discharges for all required parameters.

99. Each day since May 28, 2011, that Defendant has failed to develop and implement an adequate monitoring and reporting program for the Facility in violation of the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite monitoring and analytical results are ongoing and continuous violations of the Act.

**VII. RELIEF REQUESTED**

Wherefore, Plaintiff respectfully requests that this Court grant the following relief:

a. Declare Defendant to have violated and to be in violation of the Act as alleged herein;

- b. Enjoin Defendant from discharging polluted storm water from the Facility unless authorized by the 2015 Permit;
- c. Enjoin Defendant from further violating the substantive and procedural requirements of the 2015 Permit;
- d. Order Defendant to immediately implement storm water pollution control and treatment technologies and measures that are equivalent to BAT or BCT;
- e. Order Defendant to immediately implement storm water pollution control and treatment technologies and measures that prevent pollutants in the Facility's storm water from contributing to violations of any water quality standards;
- f. Order Defendant to comply with the Permit's monitoring and reporting requirements, including ordering supplemental monitoring to compensate for past monitoring violations;
- g. Order Defendant to prepare a SWPPP consistent with the Permit's requirements and implement procedures to regularly review and update the SWPPP;
- h. Order Defendant to provide Plaintiff with reports documenting the quality and quantity of their discharges to waters of the United States and their efforts to comply with the Act and the Court's orders;
- i. Order Defendant to pay civil penalties of up to \$37,500 per day per violation for each violation of the Act since July 14, 2011 pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;
- j. Order Defendant to take appropriate actions to restore the quality of waters impaired or adversely affected by their activities;
- k. Award Plaintiff's costs (including reasonable investigative, attorney, witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C. § 1365(d); and,
- l. Award any such other and further relief as this Court may deem appropriate.

1  
2 Dated: July 27, 2016

Respectfully submitted,

3  
4 By: /s/ Douglas J. Chermak

5 Douglas J. Chermak  
6 LOZEAU DRURY LLP  
7 410 12th Street, Suite 250  
8 Oakland, CA 94607  
9 Tel: (510) 836-4200  
10 Fax: (510) 836-4205

11 /s/ Margaret Hall (as authorized on 7/27/16)

12 Margaret Hall  
13 ENVIRONMENTAL DEFENSE CENTER  
14 906 Garden Street  
15 Santa Barbara, CA 93101  
16 Tel: (805) 963-1622  
17 Fax: (805) 962-3152

18 Attorneys for Plaintiff  
19 ENVIRONMENTAL DEFENSE CENTER  
20  
21  
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24  
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